

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

STASON SUTTON,  Plaintiff,  -against-  626 EMMUT PROPERTIES, LTD. AND 10 <sup>TH</sup> AVENUE GROUP, INC.  Defendants.	<b>Docket No. 1:18-cv-00090 (JPO)</b>  <b>NOTICE OF MOTION</b>  <b>Oral Argument Requested</b>
---	--

Sirs:

PLEASE TAKE NOTICE, that upon the Declaration of Bruce Horowitz, made on the 30th day of March, 2020, the Statement Pursuant to Rule 56.1, and the accompanying memorandum of law, the undersigned will move this Court pursuant to FRCP 56 at the Courthouse, 40 Foley Square, New York, New York on the 30<sup>TH</sup> day of April, 2020 at 10 a.m. in the forenoon or as soon thereafter as counsel may be heard for an order:

1. Declaring that the restaurant known as 44 & 10 Hell's Kitchen, located at 626 Tenth Avenue, NY, NY (the "Subject Property"), was not in full compliance with the Americans with Disability Act, 42 U.S.2d 12181, et seq. (the "ADA"), when this case was commenced, but promptly made, without judicial intervention, readily achievable accommodations to allow access and use by persons with disabilities using wheelchairs and that at present there is no discrimination against such individual within the meaning of the ADA.
2. Awarding the Plaintiff the sum of \$9,500 for legal fees, expert fees and costs and disbursements, or alternatively, severing the issue of legal fees, expert fees and costs, to be determined by the Court on a fee application.

3. Dismissing without prejudice all non-federal claims raised in the complaint.
4. Granting to defendants such other and further relief as to the Court may seem just and proper.

Dated: March 31, 2020  
New York, New York

# DL PARTNERS

D'AGOSTINO, LEVINE, LANDESMAN,  
LEDERMAN, RIVERA & SAMPSON LLP

By: /s/

Bruce H. Lederman, Esq. (BL5758)

Eric R. Garcia, Esq. (EG1974)

*Attorneys for the Defendant*

626 EMMUT PROPERTIES, LTD

345 Seventh Avenue, 23rd Floor

New York, NY 10001

Tel: (212) 564-9800

Fax: (212) 564-9802

blederman@dlpartnerslaw.com

egarcia@dlpartnerslaw.com

Arshack, Hajek and Lehrman, PLLC,

By: \_\_\_\_\_/s/\_\_\_\_\_

Michael B. Lehrman, Esq.

*Attorneys for the Defendant*

10<sup>TH</sup> AVENUE GROUP, INC.

1790 Broadway, Suite 710

New York, NY 10019

Tel: 212 582-6500

TO:  
Parker Hanski, LLC  
*Attorneys for Plaintiff*  
40 Worth Street, 10<sup>th</sup> Floor  
New York, NY 10013